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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,172	04/19/2004	Brian Arnott	060494-0001	1757
20572	7590	03/25/2005	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			BARRY, CHESTER T	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 03/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,172

Applicant(s)

ARNOTT, BRIAN

Examiner

Chester T. Barry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/8/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claims "[c2]" through "[c21]" are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of these claims appear to depend from a claim previously set forth, as required by Sec.112(4th), but it is unclear to which claims the iconographic symbols "[c1]," "[c11]," "[c12]" and the rest refer. Do they refer to claims 1, 11, and 12, respectively? If so, it is unclear where claims 1, 11, and 12 can be found.

Similarly, Claims "[c23]" through "[c25]" are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of these claims appear to depend from a claim previously set forth, as required by Sec.112(4th), but it is unclear to which claims the iconographic symbols "[c21]" and "[c22]" refer. Do they refer to claims 21 and 22, respectively? If so, it is unclear where claims 21 and 22 can be found.

Similarly, Claims "[c27]" through "[c30]" are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of these claims appear to depend from a claim previously set forth, as required by Sec.112(4th), but it is unclear to which claims the iconographic symbols "[c26]" and "[c27]" refer. Do they

refer to claims 26 and 27, respectively? If so, it is unclear where claims 26 and 27 can be found.

Similarly, Claims "[c32]" through "[c35]" are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of these claims appear to depend from a claim previously set forth, as required by Sec.112(4th), but it is unclear to which claims the iconographic symbols "[c31]" and "[c32]" refer. Do they refer to claims 31 and 32, respectively? If so, it is unclear where claims 31 and 32 can be found.

Claim "[c1]" is objected to for minor informalities: "whereby quantity" is not drafted in proper grammatical form. "[W]hereby said quantity" or "whereby the quantity" is suggested.

Claim "[c9]" is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what it means for crushed glass to be "pre-crushed." Crushed in time before what event or act? Similarly, pre-screened vis-a-vis what subsequent event or act?

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Claims 1 – 3, 6, 9, 11 are rejected under 35 USC Sec. 102(b) as anticipated by Rowsell. USP 5342525 to Rowsell describes¹ placing ground glass powder-supported microorganisms onto the surface of an oil spill, i.e., the surface found at the air / salt water (ocean) interface. Per claim 6, all glass is deemed to be recyclable. Per claim 9, the glass described in Roswell is "pre-crushed" because it is necessarily crushed before it is applied to the oil spill as crushed glass. In the course of being crushed, a screening necessarily takes place in the sense that crushed glass is separated from non-crushed glass. Per claim 11, after any arbitrary amount of crushing has taken place, additional crushing takes place subsequent thereto.

Claims 7 – 8, 10 are rejected under 35 USC Sec. 103(a) as obvious over Rowsell. Per claim 7, it would have been obvious to have formed the crushed glass powder by crushing glass using any known glass-crushing technique or machinery, such as any of the devices listed in claim 7. Per claim 10, it would have been obvious to have used any cheap source of glass, such as green- or amber-colored beverage bottles.

¹ Rowsell states: "The microorganisms employed in the present invention are best cultured under aerobic conditions, such as aerobic shaking of the culture or with stirring and aeration of a submerged culture at a temperature of, for example, about 5.degree. to 35.degree. C. and at a pH of, for example, about 6 to 8. The microorganisms are harvested at appropriate times. In some of the more preferred embodiments of this invention, a carefully selected suitable mixture of microorganisms enumerated in subsequent sections of this patent disclosure can be admixed with an appropriate inert substance which serve as "carrier" materials for the microorganisms. For example, the inert substance can be selected from the group consisting of celite, cellulose powder, wood shavings, sawdust, caro-sil or Silicagel which is precipitated silicic acid having the general formula $H_{2.2}SiO_{3.3}$ diatomaceous earth, kaolin, various fibers, finely ground sand, ground glass powder, oyster shell powder or clam shell powder."

Claims 4 – 5, 12-25 are objected for their dependence on a rejected base claim, but would be allowable if amended to overcome any applicable non-art based rejections and/or objections, and presented in independent form.

Claims 26 - 30 are rejected under 35 USC Sec. 102(a) as anticipated by USP 4525711. '711 describes a double ended spoon. One end is capable of being used to deliver crushed glass to a surface location. The other end is capable of being used to retrieve spilled oil-laden crushed glass from an oil spill surface location. The recitations recited in claims 27 – 30 do not limit the apparatus: They limit only the material with which the apparatus is intended to be used.

Claims “[c27]” – “[c30]” are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the crushed glass itself forms an element of the apparatus, or whether it is merely the intended material to be worked upon by the apparatus.

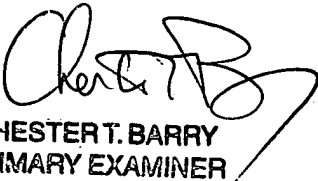
Claims “[c31]” through “[c35]” are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not seen how at least partial surrounding of an oil

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container with a layer of crushed glass prevents oil from being spilled onto the crushed glass. The crushed glass may limit the potential for oil to contact the material or surface that underlies the crushed glass, but it does not prevent the spilling of oil out of the container.

Objection is made to the Abstract for presence of word the suffix of which is

".DOC."


CHESTERT T. BARRY
PRIMARY EXAMINER

571-272-1152